

Subpart B—Production and Disclosure of Records

§ 15.11 Publication in the Federal Register.

Subject to the exemptions in § 15.21, the Department shall separately state and currently publish in the FEDERAL REGISTER for the guidance of the public:

(a) Descriptions of its central and field organization and the established places at which, the employees from whom and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(b) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Department; and

(e) Each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to or be adversely affected by any matter required to be published in the FEDERAL REGISTER and not so published. For purposes of this section, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the FEDERAL REGISTER when incorporated by reference therein with the approval of the Director of the Office of the Federal Register, as provided in 1 CFR part 51.

§ 15.12 Materials not published in Federal Register.

(a) Subject to the exemptions in § 15.21, the Department, in accordance with this part, shall make available for public inspection and copying:

(1) Final opinions, including concurring and dissenting opinions, as well as

orders, made in the adjudication of cases;

(2) Statements of policy and interpretations which have been adopted by the Department and are not published in the FEDERAL REGISTER; and

(3) Administrative staff manuals and instructions to staff that affect a member of the public.

(b) To prevent a clearly unwarranted invasion of personal privacy, the Department may delete identifying details when it makes available or publishes any material. Whenever such deletions are required, the record or copy will be made available with the space formerly occupied by such identifying details left blank, and the justification for the deletion shall be explained fully in writing.

(c) The Department shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this section to be made available or published. The Department shall promptly publish quarterly and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the FEDERAL REGISTER that the publication would be unnecessary and impracticable, in which case the Department shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication.

§ 15.13 Records produced upon request when reasonably described.

(a) The procedures for requesting access to records are set forth in subpart E of this part.

(b) When a request is made that reasonably describes a record of the Department that has been stored in a record center of the National Archives and Record Administration, this record will be requested from the Records Center by the Department and made available to the requester if the record would otherwise be available under this part. Records accessioned by the National Archives will not be made available by the Department, but may be requested directly from the National Archives.

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(c) Every effort will be made to make a record in use by the staff of the Department available when requested, and such availability will be deferred only to the extent necessary to avoid serious interference with the business of the Department.

(d) Copies of a requested record need not be furnished if the record is published in the FEDERAL REGISTER or is available for purchase from the Superintendent of Documents of the Government Printing Office. Such records may, however, be examined in one of the Department's information centers.

[40 FR 48123, Oct. 14, 1975, as amended at 60 FR 11903, Mar. 3, 1995]

Subpart C—Exemptions

§ 15.14 Fees.

(a) *Copies of records.* HUD will charge \$0.15 per page for photocopies of documents. For copies prepared by computer, HUD will charge the actual cost of the tape or disk plus \$25.00 per minute for central processing unit (CPU) time, so as to recoup reasonable direct costs of duplicating. For other methods of reproduction or duplication of documents, HUD will charge the actual direct costs of producing the documents.

(b) *Manual searches for records.* HUD will charge \$16.35 per hour per person for searches/reviews performed by clerical staff, and \$37.00 per hour per person for searches/reviews performed by professional staff. Charges for search/review time will be billed in 1/2 hour segments.

(c) *Computer searches for records.* HUD will charge \$35.00 per hour for computer programming relating to a search, plus \$25.00 per minute for central processing unit (CPU) time.

(d) *Contract services.* HUD will contract with private sector sources to locate, reproduce and disseminate records in response to FOIA requests when that is the most efficient and least costly method. When doing so, however, HUD will ensure that the ultimate cost to the requester is no greater than it would be if HUD itself had performed these tasks. In no case will HUD contract out responsibilities which the FOIA provides that HUD alone may discharge, such as deter-

mining the applicability of an exemption, or determining whether to waive or reduce fees. HUD will ensure that when documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs such as the National Technical Information Service, HUD will inform requesters of the steps necessary to obtain records from those sources. Information provided routinely in the normal course of business will be provided at no charge.

(e) *Restrictions on assessing fees.* HUD will provide the first 100 pages of duplication and the first two hours of search time, manual or computer, free of charge to noncommercial use requesters. There is no charge to noncommercial use requesters for time needed for review, as defined in paragraph (g)(4) of this section. Review time is chargeable only to commercial use requesters. HUD will only assess fees for amounts in excess of \$25.00.

(f) *Payment of fees.* Payment of fees under this section and under § 15.16(a) shall be made by check or money order, payable to the Treasurer of the United States. Cash payments may be made in person at Headquarters or the Field Offices. The fees shall be sent to the Office of Executive Secretariat at Headquarters or to the appropriate Field Office.

(g) *Definitions.* As used in this subpart:

(1) *Direct costs* means those expenditures which HUD actually incurs in searching for and duplicating (and, in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(2) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Such activity is distinguished from *review* of material in